



1 Met pursuant to notice at 10:00 a.m.

2 BEFORE:

3 Latrice Kirkland-Montague, Administrative Law Judge

4 APPEARANCES:

5 ROCK FUSCO & CONNELLY LLC, by  
MR. PAUL D. STREICHER  
6 321 North Clark Street, Suite 2200  
Chicago, Illinois 60654  
7 (312) 970-3467  
Appearing on behalf of  
8 CSX Transportation, Inc.;

9 DALEY MOHAN GROBLE PC, by  
MR. ROBERT J. PRENDERGAST  
10 MR. MICHAEL W. SHUMATE  
55 West Monroe Street, Suite 1600  
11 Chicago, Illinois 60603  
(312) 422-9999  
12 Appearing on behalf of BNSF Railway Company;

13 ILLINOIS DEPARTMENT OF TRANSPORTATION, by  
MS. JENNIFER R. KUNTZ  
14 2300 South Dirksen Parkway, Room 313  
Springfield, Illinois 62764  
15 (217) 782-3215  
Appearing on behalf of IDOT;

16 ILLINOIS COMMERCE COMMISSION, by  
17 MR. AARON TOLIVER  
527 East Capitol Avenue  
18 Springfield, Illinois 62701  
(217) 785-8420  
19 Appearing on behalf of Staff.

20

21 SULLIVAN REPORTING COMPANY, by  
Christine L. Kowalski, CSR  
22 License No. 084-004422

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I N D E X

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E X H I B I T S

Number For Identification In Evidence

CSX's No. 1 28

1 JUDGE KIRKLAND-MONTAQUE: By the power vested  
2 in me by the State of Illinois and the Illinois  
3 Commerce Commission, I now call Docket No. T14-0125  
4 for hearing. This is in the matter of CSX  
5 Transportation, Inc. versus the Village of Smithboro  
6 Illinois, Pleasant Mound Township Road District, Bond  
7 County, Illinois, BNSF Railway Company, and the  
8 Illinois Department of Transportation as Respondents.

9 This is on a Petition for an Order of  
10 the Commerce Commission allowing the construction of  
11 a connection between the CSXT and BNSF tracks as well  
12 as two interchange tracks parallel to the existing  
13 CSXT main line track at the grade crossing at Main  
14 Street, also known as County 12, and the grade  
15 crossing at King Road in the Village of Smithboro,  
16 Pleasant Mound Township, Bond County, Illinois.

17 May I have the appearances, please,  
18 starting with CSX.

19 MR. STREICHER: Good morning, your Honor. My  
20 name is Paul Streicher, S-t-r-e-i-c-h-e-r. I  
21 represent CSX Transportation, Inc. My office address  
22 is 321 North Clark Street in Chicago 60654. My

1 office telephone is area code (312) 970-3467.

2 JUDGE KIRKLAND-MONTAQUE: Okay. Do we have a  
3 representative from the Village of Smithboro?

4 No?

5 MR. STREICHER: Your Honor, I've been advised  
6 by CSX that a representative of my client did meet  
7 with the Village Mayor and that he had no issues with  
8 the project and we didn't expect him to appear today.

9 JUDGE KIRKLAND-MONTAQUE: Okay. I see we have  
10 a representative from BNSF.

11 MR. PRENDERGAST: Yes, your Honor. Bob  
12 Prendergast, P-r-e-n-d-e-r-g-a-s-t, from the law firm  
13 of Daley Mohan Groble, 55 West Monroe Street,  
14 Suite 1600, Chicago 60603. My phone is (312)  
15 422-0799. And with me today is Michael Shumate,  
16 S-h-u-m-a-t-e, who's with our law firm as well.

17 JUDGE KIRKLAND-MONTAQUE: Okay. And IDOT.

18 MS. KUNTZ: On behalf of the Illinois  
19 Department of Transportation, Jennifer Kuntz,  
20 K-u-n-t-z, address of 2300 South Dirksen Parkway,  
21 Springfield, Illinois 62764. And telephone is (217)  
22 782-3215.

1 JUDGE KIRKLAND-MONTAQUE: Staff.

2 MR. TOLIVER: Okay. Your Honor, Aaron Toliver  
3 representing Staff of the Commerce Commission's  
4 Railroad Safety Section. That's A-a-r-o-n  
5 T-o-l-i-v-e-r -- T, as in Tom. And my address is  
6 527 East Capitol Avenue, Springfield, Illinois 62701.  
7 Telephone is (217) 785-8420.

8 JUDGE KIRKLAND-MONTAQUE: Okay. Any witnesses  
9 that are testifying today, please raise your right  
10 hand.

11 Ms. Kuntz, do you have a witness?

12 MS. KUNTZ: No, I do not, your Honor. Thank  
13 you.

14 JUDGE KIRKLAND-MONTAQUE: Is there another  
15 person in the room down there?

16 MS. KUNTZ: Yes, he is our engineer from our  
17 Central office. He won't be testifying unless he's  
18 needed for some reason.

19 JUDGE KIRKLAND-MONTAQUE: Mr. Streicher, could  
20 you please name your witness on the phone.

21 MR. STREICHER: Yes, your Honor. CSX  
22 Transportation will present two witnesses today. The

1 first is Amanda DeCesare, who is --

2 JUDGE KIRKLAND-MONTAQUE: Can you spell the

3 last name.

4 MR. STREICHER: Yes. It's D-e-C-e-s-a-r-e.

5 JUDGE KIRKLAND-MONTAQUE: Okay. Okay.

6 Ms. DeCesare and -- please raise your right hand.

7 (Witnesses sworn.)

8 JUDGE KIRKLAND-MONTAQUE: Ms. DeCesare?

9 THE WITNESS: Yes.

10 JUDGE KIRKLAND-MONTAQUE: Can you hear me?

11 THE WITNESS: I can hear you, yes.

12 JUDGE KIRKLAND-MONTAQUE: Okay. So your answer

13 to that question was...?

14 THE WITNESS: Yes.

15 JUDGE KIRKLAND-MONTAQUE: All right. Okay. I

16 will give you the floor, Mr. Streicher.

17 MR. STREICHER: Thank you, your Honor. CSX

18 Transportation, Inc., is presenting its Petition

19 today for leave to construct the project as you

20 previously identified.

21 We are seeking today an Interim Order

22 to what we call Phase 1 of the project, having

1 divided the project into two components. And, as I  
2 said earlier, we're proceeding with Phase 1 today.  
3 And Phase 1 needs to be completed by December 31st,  
4 2014, and then we'll put in through our Petition and  
5 the testimony as to -- the issue as to Phase 2 and  
6 the timing of that.

7                   Initially, Judge, we had previously  
8 filed a motion to dismiss Bond County, Illinois, as a  
9 respondent. And initially the County had been joined  
10 arising out of a concern that Main Street, one of the  
11 at-grade crossings here that's also known as  
12 County 12 -- IDOT has since confirmed that  
13 Main Street is under IDOT maintenance and  
14 jurisdiction.

15                   It is our position, therefore, that  
16 Bond County is not required as a respondent, and we  
17 would move that Bond County, Illinois, be dismissed  
18 without prejudice as a respondent herein.

19                   JUDGE KIRKLAND-MONTAQUE: Any objection to  
20 dismissing Bond County?

21                   MR. PRENDERGAST: None from BNSF, your Honor.

22                   JUDGE KIRKLAND-MONTAQUE: IDOT?



1 MS. KUNTZ: No, your Honor.

2 JUDGE KIRKLAND-MONTAQUE: Okay. Staff, any  
3 objection?

4 MR. TOLIVER: No objection, your Honor.

5 JUDGE KIRKLAND-MONTAQUE: Okay. I will dismiss  
6 Bond County as a respondent.

7 Proceed.

8 MR. STREICHER: With that, your Honor, I would  
9 then like to call Ms. Amanda DeCesare as a witness.

10 JUDGE KIRKLAND-MONTAQUE: Okay.

11 AMANDA DeCESARE,  
12 called as a witness herein, having been previously  
13 duly sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY

16 MR. STREICHER:

17 Q Ms. DeCesare, can you hear me okay?

18 A Yes, I can. Can you hear me?

19 Q Yes. I'll tell you -- please tell me if  
20 you can't hear us and we'll do the same.

21 A Okay.

22 Q Can you state your name for the record,

1 please, spelling your last name.

2 A Amanda DeCesare, D-e-C-e-s-a-r-e.

3 Q And what is your present employment?

4 A I am a project manager of public projects  
5 for CSX Transportation.

6 Q And how long have you been employed by CSX  
7 Transportation?

8 A I've been employed for about 7 and a half  
9 years, but in this position for about 2 and a half.

10 Q Can you tell the Court briefly your  
11 educational background.

12 A A Bachelor of Science in Construction  
13 Management and an Associate in Applied Science in  
14 Civil Engineering Technology.

15 Q Can you tell the Court your duties, please,  
16 at CSX.

17 A Yes. As the project manager of public  
18 projects, I facilitate the public agency construction  
19 projects that affect CSX's track, which is overhead  
20 bridges, railroad crossings, or undergrade bridges.  
21 I facilitate the construction of them with CSX.

22 Q Are you familiar with the two at-grade

1 crossings, the subject of this Petition, in  
2 Smithboro, Illinois, specifically the Main Street  
3 at-grade crossing DOT No. 546514R, Mile Post QS  
4 186.2, as well as King Road inventoried as DOT  
5 No. 546513J, Mile Post QS 184.8?

6 A Yes.

7 Q Can we agree to call those crossings  
8 Main Street and King Road?

9 A Yes.

10 Q Okay. Would you tell the Court, please,  
11 the general overview of this project.

12 A Yes. The project is the construction of a  
13 connection track between CSXT and BNSF tracks as well  
14 as two interchange tracks parallel to the existing  
15 CSX main line and the track passes through the grade  
16 crossings at Main Street and King Road.

17 Q Okay. I would like to direct your  
18 attention to what's been filed as Exhibit 1, which is  
19 a Proposed Agreed Interim Order prepared by ICC Staff  
20 and circulated to parties without objection.

21 Do you have that document in front of  
22 you?

1           A     Yes.

2           Q     And attached to that document as

3     Exhibit 1-A is a plan that's identified as a Concept

4     Plan.

5                     Do you have that document in front of

6     you?

7           A     Yes.

8           Q     That reflects that the CSXT main line track

9     runs in a northeast to southwest direction near and

10    through Smithboro; is that correct?

11          A     Yes.

12          Q     BNSF has a main line track running in a

13    north to south direction near Smithboro; is that

14    correct?

15          A     Yes.

16          Q     Does the plan detail two interchange

17    tracks?

18          A     It does.

19          Q     And does the plan also detail the

20    connection -- proposed connection between the BNSF

21    main line track and the CSXT track?

22          A     Yes.

1           Q     Okay.  You're aware that CSX is proposing  
2     that this construction proceed in two phases; is that  
3     right?

4           A     Yes.

5           Q     Phase 1 would consist of the connection  
6     with the BNSF and CSXT tracks as well as the  
7     construction of a first interchange track; is that  
8     right?

9           A     Yes.

10          Q     Phase 2 would consist of the construction  
11     of a second interchange track and the moving of  
12     King Road; is that your understanding as well?

13          A     Yes.

14          Q     Okay.  Today we're here seeking an Interim  
15     Order as to the Phase 1 portion of the project.

16                     Can you tell the Court why Phase 1  
17     should -- was sought to be expedited?

18          A     Yes.  During the winter -- last winter of  
19     2013/2014, BNSF had traffic running through the  
20     Chicago area via the CSX tracks.  And with the severe  
21     weather that we experienced last winter, there were a  
22     lot of delays on them throughout the CSX network for

1 the traffic and it delayed the traffic.

2 So the Phase 1 construction is -- we  
3 would like to complete it by the end of 2014 so that  
4 we can have the additional connection in Smithboro  
5 for use during the 2014/2015 winter.

6 Q Would you now direct your attention to  
7 Exhibit 1, being the Proposed Agreed Interim Order,  
8 and specifically Page 2.

9 A Yes.

10 Q There are two at-grade crossings here, as  
11 you've testified. The first one is the Main Street  
12 grade crossing.

13 Looking at the first paragraph on  
14 Page 2, can you tell the Court -- can you describe  
15 for the Court the Main Street at-grade crossing.

16 A Yes. Main Street is known as DOT 546514R.  
17 It is a two-lane asphalt road under IDOT's  
18 jurisdiction. The road runs in a north-south  
19 direction and is approximately 20 feet in width from  
20 edge to edge and has pavement markings and gravel  
21 shoulders.

22 The average annual daily traffic is

1 approximately 750 vehicles per day, with  
2 approximately 8 percent being heavy commercial  
3 vehicles. The posted highway speed is 30 miles an  
4 hour and hazmat vehicles and school buses may legally  
5 use Main Street.

6 Q Okay. Can you describe -- is it correct to  
7 say that the single line main line track owned by CSX  
8 runs in a northeast to southwest direction and  
9 crosses Main Street at 65 degrees?

10 A Yes.

11 Q There are 13 freight trains per day with a  
12 maximum timetable speed of 60 miles an hour?

13 A Correct.

14 Q Are there any regularly scheduled passenger  
15 trains?

16 A No.

17 Q What are the existing crossing warning  
18 devices?

19 A They're automatic flashing light signals  
20 with gates and a bell.

21 Q The crossing surface is timber and asphalt  
22 about 35 feet in length; is that correct?

1           A     Yes.

2           Q     And there is a sidewalk there that's  
3     approximately 10 feet wide, also timber and asphalt,  
4     18 feet from the track; is that correct?

5           A     Yes.

6           Q     Are there any significant pedestrian  
7     generators, such as hospitals or schools?

8           A     No.

9           Q     You're familiar with the BNSF track that  
10    runs generally in a north-south direction?

11          A     Yes.

12          Q     And that track crosses CSX's track  
13    approximately 850 feet west of Main Street; is that  
14    right?

15          A     Yes.

16          Q     There are not presently any connecting  
17    tracks to allow trains to move between the CSX tracks  
18    and BNSF tracks; is that correct?

19          A     Correct.

20          Q     And the connecting track then would  
21    necessarily cross Main Street; is that right?

22          A     Yes.



1           Q     CSX proposes to renew the existing crossing  
2     surfaces and existing automatic warning devices as  
3     well as improving the highway and sidewalk  
4     approaches?

5           A     Correct.

6           Q     And, in effect, Phase 1 of this project  
7     would turn the existing single track crossing into a  
8     double track crossing; is that correct?

9           A     Yes.

10          Q     Okay. And those features are all shown in  
11     Exhibit A, the Concept Plan that you've identified  
12     previously; is that correct?

13          A     Yes.

14          Q     Once the new connecting track is installed,  
15     it should generate approximately two additional train  
16     movements per day with a maximum proposed speed of  
17     25 miles per hour; is that correct?

18          A     Yes.

19          Q     All right. And the project proposes the  
20     installation of constant warning time, or CWT,  
21     circuitry to control the renewed automatic warning  
22     devices; is that correct?

1           A     Yes.

2           Q     Exhibit B to the Interim Order is the plans  
3     for Main Street; is that correct?

4           A     Yes.

5           Q     And those plans were prepared with the  
6     input of the parties and ICC Staff; is that correct?

7           A     Yes.

8           Q     The plans comply with all the requirements  
9     of the Illinois Administrative Code?

10          A     Yes.

11          Q     Okay. And CSX will continue to coordinate  
12     with IDOT to obtain the necessary plans, approval,  
13     and permits for the construction of that crossing; is  
14     that correct?

15          A     Yes.

16          Q     IDOT is the main agency with jurisdiction  
17     over Main Street?

18          A     Yes.

19          Q     And, to your knowledge, no party has  
20     objected to the plans regarding Main Street; is that  
21     correct?

22          A     Correct. Correct.

1           Q     I'd like to address your attention now to  
2     the King Road grade crossing, which is shown as  
3     Exhibit C as part of Exhibit 1.

4                     Do you see the plan for Exhibit C?

5           A     Yes.

6           Q     Okay. King Road is presently a two-lane  
7     oil and chip road under the jurisdiction of the  
8     Pleasant Mound Township Road District; is that  
9     correct?

10          A     Yes.

11          Q     It's 16 feet edge to edge with turf  
12     shoulders and no markings; is that correct?

13          A     Yes.

14          Q     And today it is approximately 7,300 feet  
15     northeast of the Main Street crossing?

16          A     Correct.

17          Q     Average annual daily traffic is  
18     approximately 100 miles (sic) per day, and the  
19     approximate vehicular speed is 30 miles an hour at  
20     the crossing; is that right?

21          A     Yeah. 100 vehicles, yes, and 30 miles an  
22     hour. You said "100 miles," so I was just verifying.

1           Q     Let's correct that.  It would be 30 miles  
2     an hour and 100 vehicles per day; correct?

3           A     Correct.

4           Q     All right.  The single line main line  
5     railroad track of CSX runs generally northeast to  
6     southwest and the crossing angle is approximately  
7     65 degrees; is that right?

8           A     Yes.

9           Q     And, once again, there are approximately 13  
10    freight trains per day with a maximum timetable speed  
11    of 60 miles per hour?

12          A     Correct.

13          Q     Is there any regularly scheduled passenger  
14    service?

15          A     No.

16          Q     The existing warning devices are automatic  
17    flashing light signals with gates and a bell  
18    controlled by CWT circuitry; is that correct?

19          A     Yes.

20          Q     And the crossing is in a rural area with no  
21    pedestrian sidewalks or significant pedestrian  
22    generators; is that correct?

1           A     Yes.

2           Q     The Concept Plan referred to as Exhibit A  
3 shows the connection between the BNSF and CSXT  
4 tracks; is that correct?

5           A     Yes.

6           Q     And CSX and BNSF have entered into an  
7 agreement between themselves to construct the  
8 connection as well as interchange traffic -- the  
9 first interchange track and place it in service by  
10 December 31st, 2014; is that correct?

11          A     Yes.

12          Q     And Interchange Track No. 2 will be  
13 constructed at a later date to be determined within  
14 Phase 2; is that correct?

15          A     Yes.

16          Q     However, both tracks are designed to handle  
17 an 8,400-foot anticipated train length; is that  
18 correct?

19          A     Yes.

20          Q     And Interchange Track No. 1 on Exhibit C  
21 shows the configuration of what would be the crossing  
22 of the track along King Road; is that correct?

1           A     That is.

2           Q     CSX believes that Interchange Track 1 will  
3     generate two additional train movements per day with  
4     future growth coming down the road; is that correct?

5           A     Yes.

6           Q     The designed maximum speed is 10 miles per  
7     hour?

8           A     Correct.

9           Q     And the relocated warning devices will also  
10    be controlled by CWT circuitry; is that correct?

11          A     Yes.

12          Q     Exhibit 1-C, the plan for King Road, those  
13    plans were prepared with the input of the parties as  
14    well as ICC Staff; is that correct?

15          A     Yes.

16          Q     And it's the Road -- Pleasant Mound --  
17    strike that, please.

18                     It's the Pleasant Mound Township Road  
19    District that has jurisdiction over King Road; is  
20    that correct?

21          A     Yes.

22          Q     And the Township has no objection to -- to

1 the plan that's marked as Exhibit C; is that correct?

2 A Correct.

3 Q Now, Phase 2 of this project will include

4 the relocation of the King Road grade crossing; is

5 that right?

6 A Yes.

7 Q Now, the present Phase 1 interchange track

8 is not likely to cause any frequent or lengthy

9 blockages of King Road; is that true?

10 A Correct.

11 Q However, in Phase 2, with the construction

12 of the second interchange track, there could be

13 frequent and lengthy blockages of King Road; would

14 that be true?

15 A Yes.

16 Q In order to address that issue, CSXT is

17 planning then to make the required property purchases

18 and commissioning of plans to relocate the crossing

19 approximately 2,700 feet east of its present

20 location, which would also move King Road; is that

21 right?

22 A Yes.

1           Q     Once that is done, that would allow  
2     8,400-foot track -- I'm sorry. Strike that, please.

3                     Once that is done, that would allow  
4     8,400-foot trains to be stored on the two interchange  
5     crossings without blocking either Main Street or  
6     King Road; is that correct?

7           A     Correct.

8           Q     And the moving of the road will not take  
9     place until Phase 2 and further order of the ICC; is  
10    that right?

11          A     Correct.

12          Q     CSX is presently seeking an Interim Order  
13    for approval of the relocation of King Road as that  
14    will not be completed in time for the December 31st  
15    target completion date for Phase 2 (sic).

16                     So the relocation would happen in  
17    Phase 2; is that right?

18          A     Yes.

19          Q     But CSX is requesting an Interim Order that  
20    would allow the immediate reconstruction of the  
21    second track at-grade crossing and the associated  
22    modifications to the approaches and automatic warning



1 devices at those crossings within Phase 1; is that  
2 right?

3 A Yes.

4 Q The cost of the second track through the  
5 existing crossings and Phase 1 modifications will all  
6 be CSX's financial responsibility subject to its  
7 agreement with BNSF; is that right?

8 A Yes.

9 Q CSX does not intend to seek any funding  
10 from other parties or from the Grade Crossing  
11 Protection Fund; is that correct?

12 A Yes.

13 Q Now, the Phase 1 work will be completed by  
14 December 31st, 2014. However, CSX is requesting six  
15 months from that date due to potential wintertime  
16 issues with the laying of asphalt and pavement  
17 striping; is that correct?

18 A Yes.

19 Q CSX is also asking that the Interim Order  
20 require that the King Road automatic warning devices  
21 be relocated after the necessary property purchases  
22 and plan approvals are obtained which will also be at

1 CSX's sole cost; is that correct?

2 A Yes.

3 Q And CSX agrees that if the approvals have  
4 not been obtained by December 31st, 2015, that the  
5 Court may then schedule a status hearing to determine  
6 the future plans; is that right?

7 A Yes.

8 Q However, CSX also agrees that in the event  
9 it's necessary to proceed with the construction of  
10 Interchange Track No. 2 through King Road, that it  
11 will not do so without permission from the ICC; is  
12 that right?

13 A Yes.

14 Q Does CSX believe that the construction  
15 proposed in this project will be a benefit to the  
16 public interest?

17 A Yes --

18 Q Can you tell --

19 A -- the -- sorry.

20 Q Go ahead.

21 A I was going to -- oh, I'll go ahead. Okay.

22 The benefit of the project to the

1 public includes the economic development potential of  
2 greater rail capacity, improved efficiency of rail  
3 operations, and the ability for movement of trains  
4 between CSX and BNSF tracks.

5                   It will -- the public will also  
6 benefit from the elimination of the grade crossing  
7 blockages by King Road with the completion of the  
8 King Road relocation. And it will also help in the  
9 event of the severe weather conditions as last year.

10           Q     And the severe winter conditions in the  
11 winter of 2013/2014 caused significant delays of  
12 vital freight from BNSF; correct?

13           A     Yes.

14           Q     And that included heating oil for the  
15 severe winter conditions, did it not?

16           A     Yes.

17           MR. STREICHER: Okay. I don't have any further  
18 questions of Ms. DeCesare at this time. However, I  
19 would offer Exhibit 1 including Plans A, B, and C  
20 attached thereto into evidence.

21           JUDGE KIRKLAND-MONTAQUE: Any objection?

22           MR. PRENDERGAST: No objection from BNSF, your

1 Honor.

2 MS. KUNTZ: No objection from IDOT, your Honor.

3 MR. TOLIVER: And Staff has no objections, but

4 I did find a couple of typos in the exhibit that I

5 can point out at the Judge's -- whenever the Judge

6 feels that's appropriate.

7 JUDGE KIRKLAND-MONTAQUE: No objections, so let

8 me -- I'll enter -- I will admit CSX's Exhibit 1 with

9 Attachments A, B, and C into evidence.

10 (Whereupon, CSX's Exhibit No. 1

11 was admitted into evidence.)

12 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Toliver,

13 why don't you read out the typos if you will.

14 MR. TOLIVER: All right. On Page 3, the final

15 paragraph --

16 JUDGE KIRKLAND-MONTAQUE: 3 of what?

17 MR. TOLIVER: -- the second line of the final

18 paragraph says that the track crosses Main Street.

19 That should say "King Road."

20 JUDGE KIRKLAND-MONTAQUE: Wait. You said

21 Page 3 -- you have to indicate which document when

22 you --

1           MR. TOLIVER:   Page 3 of the Agreed Interim  
2   Order --

3           JUDGE KIRKLAND-MONTAQUE:   Okay.

4           MR. TOLIVER:   -- which is Exhibit 1.

5           JUDGE KIRKLAND-MONTAQUE:   Okay.   So, again,  
6   where is it that the typo appears?

7           MR. TOLIVER:   This would be Page 3, the final  
8   paragraph, the second line.   There's a mistaken  
9   reference to Main Street, just a cut-and-paste type  
10   of error.   That should say "King Road."

11          JUDGE KIRKLAND-MONTAQUE:   All right.

12          MR. TOLIVER:   I think that's the only ones that  
13   are -- the only one that is of any significance.  
14   There may have been a couple of missing spaces or an  
15   extra period or something like that, but...

16          JUDGE KIRKLAND-MONTAQUE:   Okay.   Just let the  
17   record reflect the correction of "King Road" instead  
18   of "Main Street" on Page 3 of the Agreed Interim  
19   Order, last paragraph.

20                        Okay.   Thank you, Mr. Toliver.

21          MR. TOLIVER:   You're welcome, your Honor.

22          JUDGE KIRKLAND-MONTAQUE:   Did you want to

1 tender the witness for cross?

2 MR. STREICHER: May -- may I just clarify that

3 one change we've made?

4 JUDGE KIRKLAND-MONTAQUE: Okay.

5 BY MR. STREICHER:

6 Q Ms. DeCesare?

7 A Yes.

8 Q Were you following along with the change we

9 made on Page 3 of the --

10 A Yes.

11 Q -- Proposed Agreed Interim Order?

12 A Yes. I see it.

13 Q And when you testified as to the

14 description of the single main line of CSX, you

15 meant King Road --

16 A Right.

17 Q -- you meant King Road at that time; is

18 that correct?

19 A Correct.

20 MR. STREICHER: Nothing further of this

21 witness, your Honor.

22 JUDGE KIRKLAND-MONTAQUE: Okay.

1                   Mr. Prendergast, do you have any --

2           MR. PRENDERGAST:   Yes.

3           JUDGE KIRKLAND-MONTAQUE:   -- questions?

4                   CROSS-EXAMINATION

5                   BY

6                   MR. PRENDERGAST:

7           Q     I just have a couple of quick questions,

8   Amanda.   I'm Bob Prendergast.   I represent BNSF.

9                   I was trying to clarify, did you say

10   that after Phase 2 was completed the interchange

11   tracks will hold trains approximately 8,400 feet in

12   length?

13           A     Yes.

14           Q     Okay.   Are you familiar with a Form 3 as

15   far as --

16           A     Yes, I am.

17           Q     -- okay -- with the signals?

18                   Is it your understanding that CSX will

19   submit the Form 3s in conjunction with the project so

20   there's just one railroad submitting the plans?

21           A     Yes, and we'll submit for both -- CSX will

22   submit the Form 3 for both King Street and -- or

1 King Road and Main Street.

2 MR. PRENDERGAST: That's all I have. Thank  
3 you.

4 JUDGE KIRKLAND-MONTAQUE: Okay. Ms. Kuntz, do  
5 you have any questions?

6 MS. KUNTZ: Just a few, your Honor.

7 CROSS-EXAMINATION

8 BY

9 MS. KUNTZ:

10 Q Amanda, you mentioned that you're willing  
11 to continue to work with IDOT regarding the plans and  
12 permits; is that correct?

13 A Yes, that's correct.

14 Q Specifically, is CSX willing to replace any  
15 of the highway markings, like, for instance, the  
16 center and edge line if they are removed?

17 A Yes.

18 Q And also specifically since the road's  
19 going to have to be closed during this project for a  
20 brief period of time, will CSX give IDOT a minimum  
21 21 days for the road closure?

22 A Yes, we will.



1 MS. KUNTZ: Thank you.

2 JUDGE KIRKLAND-MONTAQUE: Mr. Toliver?

3 MR. TOLIVER: Your Honor, I think I have no  
4 questions. I believe everything was addressed  
5 sufficiently.

6 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

7 Okay, Mr. Streicher.

8 MR. STREICHER: Your Honor, I would like to now  
9 call as a witness Mr. Stephen Heath.

10 JUDGE KIRKLAND-MONTAQUE: Okay.

11 STEPHEN HEATH, P.E.,  
12 called as a witness herein, having been previously  
13 duly sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY

16 MR. STREICHER:

17 Q Sir, can you state your name for the  
18 record, spelling your first name and last name.

19 A Yes. I'm Stephen Heath. First name is  
20 S-t-e-p-h-e-n; last name Heath, H-e-a-t-h.

21 Q And are you presently employed, sir, and  
22 where is that?

1           A     Yes, I'm employed by Patrick Engineering  
2     Incorporated as a senior engineer.

3           Q     And how long have you been with Patrick  
4     Engineering?

5           A     I've been with Patrick Engineering 19  
6     years.

7           Q     What are your duties with Patrick  
8     Engineering?

9           A     I currently oversee the design of railroad  
10    projects and preparation of plans for railroad  
11    improvements and railroad projects.

12          Q     Please briefly tell the Court your  
13    educational background.

14          A     I have a Bachelor of Science in Civil  
15    Engineering from the University of Illinois and I'm a  
16    Registered Professional Engineer in the state of  
17    Illinois.

18          Q     You're familiar with the two at-grade  
19    crossings we've previously identified as Main Street  
20    and King Road?

21          A     Yes, I am.

22          Q     Okay. And you were present during the

1 testimony of Amanda DeCesare, weren't you?

2 A Yes.

3 Q And if asked the same questions, you would

4 give the same answers?

5 A Yes.

6 Q Okay. And your primary involvement has

7 been the completion of the plans for both Phase 1 and

8 Phase 2; is that correct?

9 A Yes, that's correct.

10 Q And that includes both the plans, the

11 sidewalks, the warning devices, and the details that

12 are set forth in Exhibit 1, the Proposed Agreed

13 Interim Order; is that correct?

14 A Yes, that's correct.

15 Q And you have brought with you today blowups

16 of Exhibit B and Exhibit C showing the details as set

17 forth in Exhibit 1; is that correct?

18 A Yes, that's correct.

19 Q Okay. Do you have any additional details

20 you think the Court should know from those plans or

21 was that adequately covered?

22 A To my knowledge, everything was adequately

1 covered.

2 MR. STREICHER: Okay. I don't have any further  
3 questions of this witness, Judge.

4 JUDGE KIRKLAND-MONTAQUE: Mr. Prendergast?

5 MR. PRENDERGAST: No questions, your Honor.

6 JUDGE KIRKLAND-MONTAQUE: Ms. Kuntz?

7 MS. KUNTZ: No questions. Thank you.

8 JUDGE KIRKLAND-MONTAQUE: Mr. Toliver?

9 MR. TOLIVER: Just one question, your Honor.

10 CROSS-EXAMINATION

11 BY

12 MR. TOLIVER:

13 Q If there are any -- during the permission  
14 process between IDOT and CSX or King -- or the  
15 Pleasant Mound Township Road District and CSX, if  
16 there are any modifications of the plans, will CSX  
17 cooperate in that respect?

18 A Yes.

19 MR. TOLIVER: Okay. That's all I have, your  
20 Honor.

21 JUDGE KIRKLAND-MONTAQUE: Okay. Actually, I  
22 have a question and maybe Ms. DeCesare would be

1 better able to address it.

2 EXAMINATION OF MS. AMANDA DeCESARE

3 BY

4 JUDGE KIRKLAND-MONTAQUE:

5 Q I'm not clear on how the Phase 1 would  
6 alleviate the problems encountered last winter for  
7 the BNSF.

8 MR. STREICHER: Did you hear the question,  
9 Amanda?

10 THE WITNESS: No, I did not. Could you please  
11 repeat that.

12 BY JUDGE KIRKLAND-MONTAQUE:

13 Q How does Phase 1 alleviate the problems  
14 encountered last winter?

15 A The connection of the CSX track and the  
16 BNSF tracks that will be done as part of Phase 1 will  
17 allow a different route outside of Chicago for the  
18 freight traffic. Last year, the freight traffic  
19 running from Chicago was very congested due to  
20 weather delays.

21 Q What was the last thing you said?

22 A Last winter, the freight traffic through

1 Chicago was very congested due to weather delays, so  
2 this would give us another route outside of Chicago  
3 for BNSF and CSX to connect.

4 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

5 Anything else, Mr. Streicher?

6 MR. STREICHER: Judge, I don't have anything  
7 further. If the Court or the party or Staff would  
8 like a larger copy of Exhibit B and Exhibit C, which  
9 is attached to Exhibit 1, certainly we can provide  
10 those. I don't know that I need to offer them into  
11 evidence.

12 Then CSX has nothing further.

13 JUDGE KIRKLAND-MONTAQUE: I think the copies  
14 that I -- the size is fine. It's easier for us to  
15 get them filed at the current size, so I wouldn't  
16 request that.

17 Is there anything the other parties --

18 BNSF, are you presenting -- you're not  
19 presenting any witnesses?

20 MR. PRENDERGAST: Correct, your Honor. We're  
21 not presenting any witnesses or evidence.

22 JUDGE KIRKLAND-MONTAQUE: Okay. And I

1     understand this is an Agreed Interim Order, so just  
2     for the record, if the parties could just give us  
3     your position on the record.

4                     Mr. Prendergast?

5             MR. PRENDERGAST:  Yes, your Honor.  BNSF  
6     supports the project and is in agreement with the  
7     entry of the Interim Order as discussed today.

8             JUDGE KIRKLAND-MONTAQUE:  Okay.  Thank you.

9                     Ms. Kuntz?

10            MS. KUNTZ:  IDOT has no objection to the  
11   project, your Honor.

12            JUDGE KIRKLAND-MONTAQUE:  All right.

13                    Mr. Toliver?

14            MR. TOLIVER:  Yes, your Honor.  Staff of the  
15   Rail Safety Section has no objection to CSX's  
16   Petition and recommends that the Commission enter an  
17   Interim Order granting the relief requested such that  
18   the crossing modifications are consistent with the  
19   plans admitted as Petitioner's Exhibits B and C and  
20   in all matters consistent with the Illinois  
21   Administrative Code 92, Illinois Administrative Code  
22   Part 1535, and all other applicable state and federal

1 rules and laws, regulations, orders, and procedures  
2 in general.

3 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

4 Is there anything further,  
5 Mr. Streicher, before we mark the record heard and  
6 taken?

7 MR. STREICHER: The only thing I could add,  
8 Judge, is that during a conference call between the  
9 parties and ICC Staff, the Pleasant Mound Township  
10 Road District stated it had no objection to the  
11 project and would not be appearing. And the Village  
12 Mayor of Smithboro has advised CSX that the Village  
13 does not have an objection.

14 And then I have one procedural  
15 question, Judge. I don't know procedurally if it's  
16 appropriate to mark it heard and taken today --

17 JUDGE KIRKLAND-MONTAQUE: Right. We'll leave  
18 it open.

19 MR. STREICHER: -- because it's an Interim  
20 Order --

21 JUDGE KIRKLAND-MONTAQUE: You're right. I  
22 thought about that after I said it. I'll leave the



1 record open.

2 And regarding the other parties, is it  
3 possible to get a written letter from them to file on  
4 eDocket?

5 MR. STREICHER: I will endeavor to do so, yes.

6 JUDGE KIRKLAND-MONTAQUE: Okay. All right.  
7 Try to do that and we'll have their position on the  
8 record.

9 So I'm going to leave the record open  
10 because this is multiple phases, and I will ask that  
11 someone give me a Word version of the Interim Order  
12 to present to the Commission at the December 10th  
13 bench session.

14 Mr. Toliver, can you do that?

15 MR. TOLIVER: Yes, your Honor.

16 JUDGE KIRKLAND-MONTAQUE: Okay. I'm sorry,  
17 Mr. Prendergast?

18 MR. PRENDERGAST: I just had one question  
19 procedurally, too. Once the -- do we need to file  
20 anything further with regard to the Order or is it  
21 something that will just be submitted to the  
22 Commission at this point?

1 JUDGE KIRKLAND-MONTAQUE: I will submit it to  
2 the -- because I have your positions on record right  
3 now.

4 MR. PRENDERGAST: Okay. Great.

5 JUDGE KIRKLAND-MONTAQUE: So I'll just present  
6 it to the Commission.

7 MR. PRENDERGAST: Thank you.

8 JUDGE KIRKLAND-MONTAQUE: You're welcome.

9 So I believe that's it for today.  
10 I'll just look forward to that Word version.

11 Thank you.

12 MR. STREICHER: Thank you, Judge.

13 MR. TOLIVER: All right. Thank you.

14 (Whereupon, the above-entitled  
15 matter was continued sine die.)  
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